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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,206	10/27/2003	Tu-Chen Cheng	DAM 588-02	3844

24211 7590 10/12/2006

US ARMY SOLDIER AND BIOLOGICAL CHEMICAL COMMAND  
OFFICE OF THE CHIEF COUNSEL/IP TEAM (BLDG E4435)  
5183 BLACKHAWK ROAD  
APG, MD 21010-5424

EXAMINER
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WARE, DEBORAH K

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/694,206

Applicant(s)

CHENG ET AL.

Examiner

Deborah K. Ware

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 1-28 are pending in the instant case.

#### ***Response to Amendment***

The amendment filed July 21, 2006 has been received and entered. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elashvili (US 6897032) in view of Favre-Bulle et al (US 5616498), Akkara et al (US 5169554), and Pillar et al (US 6922615), all cited on enclosed PTO-892 Form.

Claims are drawn to a decontaminant composition comprising OPH, OPAA, DFPase, dehalogenase, ammonium salts and pH control agent. Fire agents are also incorporated into the composition.

Elashvili teaches OPH and OPAA enzymes capable of decontaminating chemical warfare agents, see col. 3, line 8.

Favre-Bulle et al teach dehalogenase is capable of decontaminating impurities in surfactants, note col. 1, lines 54-56. Further, they teach ammonium salts to be present during the production of their decontaminant, see column 4, line 30.

Akkara et al teach that DFPase has detoxifying activity, note col. 11, lines 67-68 and col. 12, lines 7-10. Also a buffer system is disclosed which functions to control pH.

Pillar et al teach fire fighting agents, such as water, foam, foaming agents, etc., note col. 25, lines 28-30.

The claims differ from Elashvili in that not all of the enzymes and other decontaminant ingredients are disclosed.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the cited prior references of Elashvili, Akkara, Favre-Bulle and Pillar, all cited above to provide for a decontaminant composition having all of these well known properties and decontaminating activities as taught by the cited prior art. These enzymes and other compounds (i.e. ammonium salt, and fire

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fighting agents) are combinable in the art for the same purpose. One of ordinary skill in the art would have expected successful results. To select for microbial sources of useful enzymes is well within the purview of a skilled artisan.

To vary and optimize amounts, therefore, for purposes of decontamination is clearly within the skill of a practitioner. Detergents are clearly disclosed by the cited prior art to be present in the prior art decontaminant composition. Trademarked fire agents and detergents are merely an obvious modification of the cited prior art and one of skill would have been motivated to provide these agents to provide for non-flammable compositions and to guard against potential danger of combustible reactions with the chemicals employed to treat a site and those reactions which can occur at a site in need of treatment. In the absence of persuasive evidence to the contrary the claims are deemed prima facie obvious over the cited prior art.

All claims fail to be patentably distinguishable over the state of the art discussed above. Therefore, the claims are properly rejected.

No claims are allowed.

### ***Response to Arguments***

Applicant's arguments filed July 21, 2006 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge

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generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, each of the ingredients are combined because they each possess decontaminating activity and/or detoxifying activity, therefore, this would suggest to one of ordinary skill in the art that their combination will provide successful results as a decontaminant, per se. As Applicants have admitted in their own response all of the elements of claimed decontaminant composition are well known as well as their detoxifying and decontaminating activities. With this knowledge one of skill in the art would have been motivated to combine these ingredients. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the


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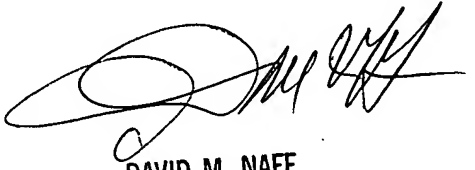
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah K. Ware whose telephone number is 571-272-0924. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Deborah K. Ware  
September 30, 2006

  
DAVID M. NAFF  
PRIMARY EXAMINER  
ART UNIT 128/1451